IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.50321 of 2006
SAMUNDRI DEVI
Versus
STATE OF BIHAR & ANR
---

For the petitioner : Mr. Surendra Kumar Singh, Adv.,
: Smt. Sudha Singh, Adv.,
For the State : Mr. Gopesh Kumar, APP,
For the Opposite party : Mr. Manoj Kumar, Adv.,

**6. 5.5.2008.** This application under Section 482 Cr.P.C. has been filed for quashing of the order dated 4.8.2006 passed by CJM, Biharsharif (Nalanda) in G. R. No. 1943 of 2003 arising out of Silao P. S. Case No. 302 of 2003 thereby and thereunder court below has taken cognizance against eight persons including this petitioner.

Heard learned counsel for both the sides and perused the impugned order as well as the record.

WEB COPY NOT OFFICIAL

This petitioner is married nanad of deceased lady. She is not named in the FIR. The police after investigation submitted final form against the named accused persons as mistake of fact, vide annexure-3. However, on protest petition filed by the informant (annexure-2), cognizance has been taken against this petitioner also.

Submission of the learned counsel for the petitioner is that this petitioner is married nanad. She is not named in the FIR. No allegation has been levelled against her. Viscera report also does not support the allegation made in the FIR. In spite of that the Court below without examination of any further witnesses has taken cognizance against this petitioner also on the basis of the material which was not found sufficient by the police.

Thus, having regard to the facts and circumstances

of this case as well as the material available in the case-diary, this application is allowed. Impugned order of cognizance dated 4.8.2006 passed by CJM, Biharsharif (Nalanda) in G. R. No. 1943 of 2003 arising out of Silao P. S. Case No. 302 of 2003 is, hereby, quashed but in respect of this petitioner only.

kanchan **(Ghanshyam Prasad, J.)**

WEB COPY NOT OFFICIAL